

REMARKS

Claims 1 to 11, 13, 15 to 17, 19 to 25, 27 and 29 to 44 have been amended and new Claims 45-94 have been added. Certain of the amended Claims include minor changes which are not discussed herein and have been added solely for readability purposes.

A two month Petition for Extension of Time to respond to the Office Action of June 5, 2001 is submitted herewith. Checks in the amount of \$1,572.00 and \$400.00 are also submitted herewith to cover the costs of the two-month extension and the new claims set forth in this Response. Please charge Deposit Account No. 02-1818 for any insufficiency or credit for any overpayment. Attached hereto is a marked up version of the changes made to the specification and claims by the current amendment which is captioned **"VERSION WITH MARKINGS TO SHOW CHANGES MADE."**

The Examiner rejected original Claims 1-6, 8-17, 21-27, 29-33, 35-38, and 40-44 under 35 U.S.C. § 102(e) as being anticipated by Fajkowski (U.S. Patent No. 5,905,246). The Examiner rejected Claims 7, 18-20, 28, 34 and 39 under 35 U.S.C. § 103(a) as being obvious in view of Fajkowski. Pursuant to the telephone interview conducted with the Examiner on October 30, 2001, applicant has amended the Claims to patentably distinguish over Fajkowski and has added new Claims which are patentably distinguished over Fajkowski.

Generally, Fajkowski relates to consumer promotions and addresses new methods and systems for providing coupons to consumers, for coupon processing and for handling coupon data or coupon-related data. In contrast, all of the amended and new claims set forth in this Response are directed to trade promotions. As set forth in

the Background of the Invention on pages 1 to 10 of the present application and as discussed during the interview, a substantial distinction exists between consumer promotions and trade promotions.

Generally, in consumer (or direct) promotions, a manufacturer sets the terms of the promotion and facilitates the printing of the coupons and the distribution of the coupons directly to the consumer. The consumers use or present the coupons to receive a discount on the price of the product promoted by the coupon and purchased by the consumer at a retailer's store. To obtain this discount, the consumer must present the coupons to the retailer at the time of purchase in the retailer's store. The retailer maintains the product sale as a full price sale on its books and does not realize the full cash value of the sale until the manufacturer reimburses the retailer for the value of the coupons collected by the retailer (plus a processing fee for handling and processing the coupons). To obtain reimbursement, the retailer must send the coupons to the manufacturer (or the manufacturer's agent or the retailer's agent) for further processing and reimbursement.

On the other hand, in trade (or indirect) promotions, the manufacturer and the retailer agree on the terms of the trade promotion for a product to be promoted through the trade promotion. The trade promotion does not include providing coupons to consumers. In a first form of the trade promotion, under the terms of the trade promotion, the retailer provides a discount on the promoted product to the consumer in the form of a reduced product price for the promoted product. The consumer receives the discount by simply purchasing the product (or in certain instances by presenting a frequent shopper card or other identification when purchasing the promoted product). In

a second form of the trade promotion, the retailer promotes the product (such as by placing the product at the end of an aisle) and receives a fee from the manufacturer for each promoted product sold by the retailer. In this version, the retailer charges the consumer full price for the product and therefore does not pass on a discount to the consumer. In these first two forms of the trade promotion, the manufacturer pays the retailer based on the number of promoted products sold by the retailer during the period of the trade promotion based on the terms of the trade promotion (rather than on the number of coupons accepted or submitted by the retailer as in consumer promotions). In a third form, the manufacturer pays the retailer a flat fee for conducting the trade promotion. The number of promoted products sold by the retailer during the period of the trade promotion is sometimes provided to the manufacturer as evidence that the retailer conducted the trade promotion. In a fourth form, the manufacturer pays the retailer a combination of a fixed fee and a fee based on the number of promoted products sold during the trade promotion. In such trade promotions, the retailer does not have to accept, verify or process coupons, and the manufacturer does not have to facilitate the printing, distribution or processing of coupons. In such trade promotions, the consumer does not have to obtain, carry, present or otherwise handle or use coupons.

Further differences between consumer promotions and trade promotions are set forth in more detail in the Background of the Invention on pages 1 to 10 of the application.

As indicated above, Fajkowski addresses coupon distribution, coupon processing, coupon handling and coupon data processing. Fajkowski does not address

trade promotions, the capturing, storage, or changing of the terms of trade promotions, promoted product POS data processing including the identification of the promoted product and the number of promoted products sold by the retailer during the period of a trade promotion, or payments for trade promotions to the retailer based on the number of promoted products sold by the retailer and the terms of the trade promotion.

As also discussed during the interview, manufacturers and retailers have encountered significant problems in administering trade promotions because the known procedures or systems for administering the trade promotions involve numerous fragmented manual steps and are not integrated or unified. Also as discussed below, the known procedures or systems do not provide manufacturers with sufficient information to make the manufacturers confident: (a) that the retailers are providing the manufacturers with correct information regarding the trade promotions; (b) that the manufacturers are paying the correct amounts of money to the retailers for the trade promotions; or (c) that the retailer's are conducting the trade promotions in accordance with the agreed upon terms of the trade promotions.

As described in the Background of the Invention of the present application, to implement a trade promotion, a manufacturer usually contacts a retailer approximately two to three weeks prior to the start of the proposed trade promotion and provides the retailer proposed terms for the trade promotion on a deal sheet. The manufacturer usually sends or provides the deal sheet manually or electronically (such as by e-mail or facsimile) to the retailer. The retailer's representative evaluates the proposed terms of the trade promotion on the deal sheet and accepts the trade promotion as is, negotiates different terms for the trade promotion or rejects the terms of the trade promotion

outright. The negotiation, if any, is usually conducted by a manufacturer representative and a retailer representative in person or over the telephone. During the negotiation, usually the retailer's representative writes notes on the deal sheet regarding the changes to the proposed terms of the trade promotion discussed and changed during the negotiation. If the manufacturer representative and the retailer representative reach an agreement on the trade promotion, each representative usually maintains their own copy of the deal sheet (which includes their own individual notes on the agreed upon terms including the changed terms). In some instances, the manufacturer's representation simply relies on his or her memory for the changed terms. The retailer and the manufacturer each have what they believe are the agreed upon terms entered into their own manual or automated systems for tracking such trade promotions. The manufacturer and retailer tracking methods operate completely independently of one another, and there is no unified or integrated communication or verification of the agreed upon terms of the trade promotion between these two separate tracking methods. The manufacturer and the retailer thus have no reliable independent method of verifying that the other party correctly understands and will employ the agreed upon terms of the trade promotion.

Prior to the trade promotion start date, in some instances, the retailer may desire to change one or more terms of the trade promotion such as the start date of the trade promotion for weather reasons. In such instances, the retailer often does not contact the manufacturer to re-negotiate the terms of the trade promotion such as the start date or notify the manufacturer of the retailer's change. The known separate manufacturer and retailer trade promotion tracking systems do not enable the retailer and the

manufacturer to check or verify any such types of changes made to the terms of the trade promotion by the other party. This is a significant problem in the industry because the manufacturer and the retailer often have different terms recorded for the trade promotion and thus lack unity in the understanding of the terms of the trade promotion. Obviously, if the manufacturer and the retailer have different terms for the trade promotion, the processing of the promoted product POS data will be different and result in different payment amounts. Using the known systems, such discrepancies are difficult to resolve and often remain unresolved.

Also prior to the trade promotion start date, the retailer loads the necessary trade promotion information, including the special prices or handling (discount) of UPC codes of the products involved in the trade promotion into the POS system in each retailer store. As customers purchase products including the promoted product in the retailer's stores, the retailer's in-store POS systems store product POS data including promoted product POS data in each store's POS computer. The retailer's individual POS systems communicate the product POS data, referred to in the industry as POS movement data, at regular intervals (usually daily or weekly) to the retailer's headquarters. The retailer's headquarter systems process the POS movement data and store it in a central POS movement database, often referred to as a data warehouse.

Either manually, or sometimes with systems support, the retailer uses the data warehouse to determine the amount of money the manufacturer owes the retailer under the terms of the trade promotion the retailer has stored in its separate trade promotion recording system. This system is not accessible by the manufacturer and does not enable the manufacturer to determine if the retailer is using the agreed upon terms of

the trade promotion (or the terms the manufacturer understands to be the agreed upon terms) to determine the amount of money the manufacturer owes the retailer for the trade promotion. The retailer's accounting department then either: (1) generates an invoice for the calculated amount and sends it to the manufacturer for payment; or (2) deducts the calculated amount from any amounts the retailer owes the manufacturer. In many instances, the retailer makes the deduction without notifying the manufacturer. In some, but not many instances, the retailer produces some type of reduced payment, charge back, or deduction notice or notation for the manufacturer. The retailer forwards the retailer's invoice or the reduced payment notice (and the reduced payment) to the manufacturer. Upon receipt, the manufacturer's financial personnel process the retailer's invoice or reduced payment notice (and reduced payment). Usually, the manufacturer's financial personnel merely accept the invoice or reduced payment notice (and reduced payment). The manufacturer does not have the ability to readily or independently verify the retailer's calculated amount, the number of promoted products sold by the retailer during the trade promotion period, the amount of the discount given to the consumers for the promoted products during the trade promotion or that the trade promotion was conducted according to the other agreed upon terms of the trade promotion such as during the agreed upon period.

Accordingly, as discussed during the interview, there are several problems with the known procedures and systems for administering trade promotions. The retailer must spend a significant number of man-hours processing the POS movement data and in preparing an invoice for the manufacturer, handling a deduction, or creating a reduced payment notification for the manufacturer. The retailer may potentially fail to

track a trade promotion altogether and the retailer may fail to track all of the products involved in all of the trade promotions. The manufacturer has no effective method of independently verifying the retailer's invoice or the accuracy of the reduced payment notice in a timely manner. Further, under the known manual systems, the manufacturer has no effective method of verifying that the trade promotion was executed by the retailer in accordance with the agreed upon terms of the trade promotion. Specifically, the manufacturer has no effective method of verifying the number of promoted products sold according to the agreed terms of the deal sheet including the agreed upon time frame and for the agreed upon promotion price or discount. The manufacturer and the retailer also have no way of monitoring results of the trade promotion during or as the trade promotion occurs. The known systems therefore provide little reliability for the administration of trade promotions handled by the manufacturer and retailer.

Accordingly, the claimed invention in this application is directed toward an independent system or an independent system operator administering the trade promotion. The independent system or the independent system operator captures, stores, and enables any change of the terms of trade promotion. The independent system or the independent system operator provide access to and thus independent verification of the terms of trade promotion. The independent system or the independent system operator provide processing of promoted product POS data for the trade promotion in accordance with the stored verifiable terms of the trade promotion. The independent system or the independent system operator provide payment to the retailer for the trade promotion based on the agreed upon terms and the promoted product POS data obtained by the independent system. The independent system or the

independent system operator thus provide a way to verify that the other party correctly understands the terms of the trade promotion, to verify any changes made to the terms of the trade promotion by the manufacturer or the retailer, to verify that the amount of payment for the trade promotion is correct, to verify the number of promoted products sold by the retailer during the trade promotion period, to verify that the trade promotion was conducted according to the agreed upon terms of the trade promotion, and to monitor the results of the trade promotion during the trade promotion.

More specifically, amended independent Claim 1 is now directed to a method for an independent system operator to administer a trade promotion. Amended Claim 1 includes the independent system operator capturing the terms of the promotion, storing the captured terms of the trade promotion in an independent system database, collecting and then filtering the product POS data to obtain promoted product POS data and processing the promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes the retailer for the trade promotion. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than product POS data and promoted product POS data. Amended Claim 1 also clearly distinguishes over the known trade promotion administering systems employed by manufacturers and retailers. Therefore, it is respectfully submitted that Claim 1 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance. It is also respectfully submitted that Claims 2 to 22 and Claims 45 and 46 which directly or indirectly depend from Claim 1 (and include other minor

changes for readability purposes) are also patentably distinguished over Fajkowski and the other references of record and are in condition for allowance.

Similar to Claim 1, new independent Claim 47 is directed to a method for an independent system operator to administer a trade promotion. New Claim 47 includes the independent system operator capturing the terms of the promotion, storing the captured terms of the trade promotion in an independent system database, receiving promoted product POS data for the trade promotion from at least one in-store POS system of the retailer and processing the promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database to determine the amount of money the manufacturer owes to the retailer for the promotion. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than promoted product POS data. New Claim 47 also clearly distinguishes over the known trade promotion administering systems employed by manufacturers and retailers for the reasons stated above. Accordingly, it is respectfully submitted that new Claim 47 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance. It is also respectfully submitted that new Claims 48 to 67 which directly or indirectly depend from new Claim 47 are also patentably distinguished over the references of record and are in condition for allowance.

Amended independent Claim 23 is now directed to a system for enabling an independent system operator to administer a trade promotion for a promoted product. Amended Claim 23 includes means for the independent system operator to capture the terms of the trade promotion, means for the independent system operator to collect

product POS data, means for the independent system operator to filter the product POS data to obtain promoted product POS data and means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the captured terms of the promotion. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than product POS data and promoted product POS data. Claim 23 also clearly distinguishes over known trade promotion administering systems employed by manufacturers and retailers for the reasons stated above. Accordingly, it is respectfully submitted that amended Claim 23 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance. It is also respectfully submitted that Claims 24 to 29 which directly or indirectly depend from Claim 23 are also patentably distinguished over the references of record and are in condition for allowance.

Similarly, new independent Claim 68 is directed to a system for enabling an independent system operator to administer a trade promotion for a promoted product. New Claim 68 includes means for the independent system operator to capture the terms of the trade promotion for the product, means for the independent system operator to collect promoted product POS data from at least one in-store POS system of the retailer and means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the trade promotion. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than promoted product POS data. New Claim 68 also clearly distinguishes over known trade promotion administering

systems employed by manufacturers and retailers for the reasons stated above. Accordingly, it is respectfully submitted that new Claim 68 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance. It is also respectfully submitted that new Claims 69 to 73 which directly or indirectly depend from new Claim 68 are also patentably distinguished over the references of record and are in condition for allowance.

Amended independent Claim 30 is directed to a method for an independent system operator to administer a plurality of trade promotions for products. Amended Claim 30 includes the independent system operator storing the terms of the trade promotions in an independent system operator database, providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions, collecting the product POS data during the trade promotions from at least one in-store POS system of the retailer, filtering the product POS data to obtain promoted product POS data, storing the promoted product POS data in the independent system operator database, determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the trade promotion stored in the independent system operator database, storing the amount of money the manufacturer owes the retailer in the independent system operator database, providing the retailer and manufacturer access to the independent system operator database during the product promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion, and facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer. Fajkowski does not address trade

promotions and is directed at processing coupon related data rather than product POS data or promoted product POS data. Amended Claim 30 also clearly distinguishes over the known trade promotions administering systems employed by the manufacturers and retailers for the reasons stated above and in part because such systems do not allow the retailer and manufacturer to access the independent system operator database during the conduct of the trade promotions. Accordingly, it is respectfully submitted that amended Claim 30 is patentably distinguished over Fajkowski, and the other references of record and is in condition for allowance. It is also respectfully submitted that Claims 31 and 32 which directly or indirectly depend from Claim 30 are also patentably distinguished over the references of record and are in condition for allowance.

Similarly to Claim 30, new Claim 74 is directed to a method for administering a plurality of trade promotions for products. New Claim 74 includes the independent system operator storing the terms of the trade promotions in an independent system operator database, providing the retailer and manufacturer access to the independent system operator database to independently verify the terms of the trade promotions, receiving promoted product POS data during the trade promotions from at least one in-store POS system of the retailer, storing the promoted product POS data in the independent system operator database, determining an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the trade promotion, storing the amount of money the manufacturer owes the retailer in the independent system operator database, providing the retailer and manufacturer access to the independent system operator database during the product promotion to determine the amount of money the manufacturer owes the retailer for the

trade promotion, and facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than promoted product POS data. Amended Claim 74 also clearly distinguishes over the known trade promotions administering systems employed by manufacturers and retailers for the reasons stated above and in part because such systems do not allow the retailer and manufacturer to access the independent system operator database during the conduct of the trade promotion. It is therefore respectfully submitted that new Claim 74 is patentably distinguished over Fajkowski, and the other references of record and is in condition for allowance. It is also respectfully submitted that new Claims 75 and 76 which directly or indirectly depend from new Claim 74 are also patentably distinguished over the references of record and are in condition for allowance.

Amended independent Claim 33 is directed to a method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of products to verify the terms of the trade promotions. Amended Claim 33 includes the steps of capturing the terms of the trade promotion in an independent system which operates independently from the retailer and the manufacturer, storing the terms of the trade promotion in an electronic database of the independent system and enabling the retailer manufacturer to access the electronic database of the independent system to determine the stored terms of the trade promotion. Fajkowski does not address trade promotions or enabling the retailer or manufacturer to access the captured and stored terms of a trade promotion. Amended Claim 33 also clearly distinguishes over the known trade promotion administering systems employed by manufacturers and retailers for the

reasons stated above and in part because the such systems do not enable the manufacturer and retailer to access the electronic database of the independent system to determine the stored terms of the trade promotion. It is respectfully submitted that amended Claim 33 is patentably distinguished over Fajkowski, and the other references of record and is in condition for allowance. It is also respectfully submitted that Claims 34 to 36 which directly or indirectly depend from amended Claim 33 are also patentably distinguished over the references of record and are in condition for allowance.

Amended independent Claim 37 relates to a system for administering trade promotions including an independent system having a processor and an electronic database accessible by the processor which are adapted to capture and store the terms of the trade promotion for the promoted product, to collect promoted product POS data for the promoted product of the trade promotion from the retailer, to process the collected promoted product POS data in accordance with the stored terms of the trade promotion in the electronic database to determine an amount of money the manufacturer owes to the retailer for the trade promotion, and to facilitate the manufacturer's payment of the amount of money determined to be owed to the retailer for the trade promotion. The system of amended Claim 37 also includes a retailer system in communication with the independent system, having a processor adapted to collect promoted product POS data for the promoted product from a plurality of retailer stores, to consolidate the promoted product POS data, and to transfer the promoted product POS data for the trade promotion to the independent system, and a manufacturer system in communication with the independent system. Fajkowski does not address trade promotions and is directed at processing coupon related data rather

than promoted product POS data. Amended Claim 37 also clearly distinguishes over the known trade promotion administering systems employed by manufacturers and retailers which did not include a separate independent known system which stores the terms of the trade promotion or processed the promoted product POS data received from the retailer. It is therefore respectfully submitted that amended Claim 37 is patentably distinguishable from Fajkowski, and the other references of record and is in condition for allowance. It is also respectfully submitted that Claims 38 to 44 which directly or indirectly depend from amended Claim 37 are also patentably distinguished over the references of record and are in condition for allowance.

New independent Claim 77 is directed to a method for an independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer. New Claim 77 requires the step of the independent system operator capturing the terms of the trade promotion including an identification of the retailer, and identification of the manufacturer, a trade promotion type, a UPC Code for the promoted product, a payment value for the promoted product and link codes for the associated discount if the trade promotion is an electronic discount trade promotion and storing such terms in an independent system operator database. New Claim 77 also requires receiving promoted product POS data for the trade promotion from at least one in store POS system of the retailer and processing the promoted product POS data in accordance with the terms of the trade promotion stored in the independent system operator database. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than promoted product POS data. Moreover, Fajkowski does not teach or suggest capturing the terms of the trade promotion set forth

in new Claim 77. New Claim 77 also clearly distinguishes over the known trade promotions system employed by manufacturers and retailers for the reasons stated above. It is therefore respectfully submitted that new Claim 77 is patentably distinguished over Fajkowski, and the other references of record and is in condition for allowance. It is also respectfully submitted that new Claims 78 to 83 which directly or indirectly depend from new Claim 77 are also patentably distinguished over the references of record and are in condition for allowance.

New independent Claim 84 is directed for a method enabling a retailer and the manufacturer involved in a plurality of trade promotions to independently verify that terms of the trade promotions for the promoted product using an independent system. New Claim 84 includes the steps of capturing the terms of the trade promotions for the promoted products including retailer identification, manufacturer identification, trade promotion type, UPC codes for the promoted products and link codes. The method of new Claim 84 further requires storing these terms of the trade promotion in an independent system database and enabling the retailer and the manufacturer to access the independent system database to determine these store terms of the trade promotion. Fajkowski does not address trade promotions. Moreover, Fajkowski does not teach or suggest capturing the terms of the trade promotion set forth in new Claim 84 or enabling a retailer and a manufacturer to access these terms. New Claim 84 also clearly distinguishes over the known trade promotion administering systems employed by retailers and manufacturers for the reasons stated above. It is therefore respectfully submitted that new Claim 84 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance. It is also respectfully submitted

that new Claims 85 to 87 which directly or indirectly depend from new Claim 84 are also patentably distinguished over the references of record and are in condition for allowance.

New independent Claim 88 is directed to a method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a retailer. The method of new Claim 88 includes the steps of the independent system operator storing the terms of each trade promotion in a least one independent system operator database, receiving consolidated promoted product POS data including promoted product POS data for each of the promoted products from each of said in-store POS systems of the retailer and processing the promoted product POS data for the promoted products in accordance with the stored terms of the trade promotions in the independent system database for said promoted products to determine amounts of money the manufacturers owe to the retailer for the trade promotions. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than promoted product POS data. New Claim 88 also clearly distinguishes over known trade promotion administering systems employed by manufacturers and retailers for the reasons stated above. It is therefore respectfully submitted that new Claim 88 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance.

New independent Claim 89 is directed to a method for an independent system operator to administer a plurality of trade promotions for a plurality of promoted products involving a plurality of manufacturers and a plurality of retailers. New Claim 89 includes the steps of the independent system operator storing the terms of each of the trade

promotions in at least one independent system operator database, receiving consolidated promoted product POS data for each of the promoted products from each of the in-store POS systems of the retailers and processing the promoted product POS data for each of the promoted products in accordance with the stored terms of the trade promotion for the promoted products in the independent system operator database to determine amounts of money the manufacturers owe to the retailers for the trade promotions. Fajkowski does not address trade promotions and is directed at processing coupon related data rather than promoted product POS data. New Claim 89 also clearly distinguishes over known trade promotion administering system employed by manufacturers and retailers for the reasons stated above. It is therefore respectfully submitted that new Claim 89 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance.

New independent Claim 90 is directed to a method for an independent system operator to administer a trade promotion for a promoted product involving a manufacturer and a retailer, which includes the independent system operator capturing terms of the trade promotion, storing the captured terms of the trade promotion in an independent system operator database, enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion, enabling the retailer to change at least one of the stored terms of the promotion prior to the start of the trade promotion, capturing any changed terms of the trade promotion and storing any changed terms of the trade promotion in the independent system operator database, enabling the retailer and the manufacturer to access the stored terms of the trade

promotion stored in the independent system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion, receiving promoted product POS data for the promoted product of the trade promotion from at least one in-store POS system of the retailer, processing the promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion, verifying that the promoted product POS data is within acceptable tolerances, enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion, and facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion. It is therefore respectfully submitted that new Claim 90 is patentably distinguished over Fajkowski and the other references of record and is in condition for allowance. It is also respectfully submitted that new Claims 91 to 94 which directly or indirectly depend from new Claim 90 are also patentably distinguished over the references of record and are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and such as is courteously solicited. If the Examiner has any questions regarding this Response, applicant respectfully request that Examiner contact the applicant's attorney, Adam Masia at (312) 807-4284.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Specification:

No changes have been made to the specification.

In the Claims:

Claim 1 as been amended as follows:

1. (Amended) A method for ~~administering a~~ an independent system operator to administer a trade promotion for a product involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:
 - capturing terms of the trade promotion;
 - storing the captured terms of the trade promotion in a an independent system operator database;
 - collecting product POS data from at least one in-store POS system of the retailer;
 - filtering the product POS data to obtain promoted product POS data;
 - processing the promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database to determine an amount of money the manufacturer owes to the retailer for the trade promotion; and
 - facilitating the manufacturer's payment of the amount of money owed to the retailer for the trade promotion.

Claim 2 as been amended as follows:

2. (Amended) The method of Claim 1, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion.

Claim 3 as been amended as follows:

3. (Amended) The method of Claim 1, which further includes the ~~step of~~ steps of the independent system operator: enabling the retailer to change the terms of the trade promotion prior to the start of the trade promotion, capturing the changed terms of the trade promotion and storing the captured changed terms of the ~~promotion~~ in the database. trade promotion in the independent system operator database.

Claim 4 as been amended as follows:

4. (Amended) The method of Claim 3, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the stored terms of the trade promotion stored in the independent system operator database to independently verify the terms of the trade promotion and to determine if the retailer changed the terms of the trade promotion.

Claim 5 as been amended as follows:

5. (Amended) The method of Claim 2 1, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the number of promoted products sold during the trade promotion.

Claim 6 as been amended as follows:

6. (Amended) The method of Claim 5, which further includes the step of the independent system operator enabling the retailer and the manufacturer to access the processed promoted product POS data to determine the amount of money the manufacturer owes to the retailer for the trade promotion.

Claim 7 as been amended as follows:

7. (Amended) The method of Claim 6, wherein the retailer and manufacturer use ~~the~~ an internet to access the stored terms of the trade promotion in the independent system operator database, the number of promoted products sold during the trade promotion and the amount of money the manufacturer owes to the retailer for the trade promotion.

Claim 8 as been amended as follows:

8. (Amended) The method of Claim 1, wherein the step of storing the captured terms of the trade promotion includes storing the terms of the trade promotion in at least one predefined table in the independent system operator database.

Claim 9 as been amended as follows:

9. (Amended) The method of Claim 8, wherein the step of storing the captured terms of the trade promotion includes creating a UPC list for the promoted products.

Claim 10 as been amended as follows:

10. (Amended) The method of Claim 9, wherein the step of storing the captured terms of the trade promotion includes generating a complete UPC code list of all of the UPC codes offered by the manufacturer.

Claim 11 as been amended as follows:

11. (Amended) The method of Claim 10, wherein the step of storing the captured terms of the trade promotion includes selecting additional products being promoted from the complete UPC code list.

Claim 13 as been amended as follows:

13. (Amended) The method of Claim 12, wherein the step of filtering the product POS data includes the step of generating a table of UPC codes for products active in the trade promotion.

Claim 15 as been amended as follows:

15. (Amended) The method of Claim 1, which further includes the step of the independent system operator verifying that the promoted product POS data is within acceptable tolerances.

Claim 16 as been amended as follows:

16. (Amended) The method of Claim 15, which includes the step of the independent system operator comparing the promoted product POS data for a period after the beginning of the trade promotion with product POS data for the same ~~products~~ product for a period prior to the beginning of the trade promotion.

Claim 17 as been amended as follows:

17. (Amended) The method of Claim 1, wherein processing the promoted product POS data in accordance with the stored terms of the trade promotion in the independent system operator database includes creating at least one settlement table in the independent system operator database which includes the number of promoted products sold by the retailer during the trade promotion, discounts given to consumers on the promoted products during the trade promotion, and the amount of money the manufacturer owes to the retailer for the trade promotion.

Claim 19 as been amended as follows:

19. (Amended) The method of Claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator: sending an invoice to the manufacturer for payment, collecting the money the manufacturer owes to the retailer and paying the retailer the amount of money owed to the retailer.

Claim 20 as been amended as follows:

20. (Amended) The method of Claim 1, wherein the step of facilitating the manufacturer's payment to the retailer includes the independent system operator sending notices to the retailer and the manufacturer of the amount of money owed by the manufacturer to the retailer, the retailer deducting the amount of money from a manufacturer invoice and identifying the manufacturer invoice number and the deduction to the manufacturer.

Claim 21 as been amended as follows:

21. (Amended) The method of Claim 1, which further includes the step of ~~aggregating~~ the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer.

Claim 22 as been amended as follows:

22. (Amended) The method of Claim 21, which further includes the step of the independent system operator processing the ~~aggregated~~ consolidated promoted product POS data for a plurality of retailers for the manufacturer.

Claim 23 as been amended as follows:

23. (Amended) A system for enabling an independent system operator to administer a trade promotion for a promoted ~~23. A system for administering a promotion for a~~ product involving a manufacturer and a retailer having at least one store with an in-store POS system, said system comprising:

~~means for capturing terms of at least one promotion;~~ the independent system operator to capture the terms of the trade promotion for promoted product;

~~means for collecting~~ means for the independent system operator to collect product POS data from at least one in-store POS system of the retailer;

~~means for filtering~~ the independent system operator to filter the product POS data to obtain promoted product POS data for the promoted product;

~~means for determining~~ means for the independent system operator to determine the amount of money the manufacturer owes to the retailer based on the promoted product POS data and the captured terms of the trade promotion; and

~~means for paying~~ the independent system operator to pay the retailer the amount of money determined by the independent system operator to be owed to the retailer by the manufacturer for the trade promotion.

Claim 25 as been amended as follows:

25. (Amended) The system of Claim 24, wherein the filtering means includes means for ~~comparing~~ the independent system operator to compare the product POS data to a list of UPCs for the trade promotion to obtain the promoted product POS data.

Claim 27 as been amended as follows:

27. (Amended) The system of Claim 23, which further includes means for ~~reporting~~ the independent system operator to report the promoted product POS data to the retailer and the manufacturer.

Claim 29 as been amended as follows:

29. (Amended) The system of Claim 23, wherein the determining means ~~aggregates~~ consolidates the promoted product POS data for a plurality of products for the manufacturer.

Claim 30 as been amended as follows:

30. (Amended) A method for an independent system operator to administer a plurality of trade ~~30. A method for administering a plurality of~~ promotions for products involving a manufacturer and a retailer having at least one store with an in-store POS system, said method comprising the steps of the independent system operator:

storing the terms of the trade promotions in an independent system operator ~~promotions in a first database~~;

~~copying the terms of the promotions to a second database~~;

providing the retailer and manufacturer access to the ~~first~~ independent system operator database to independently verify the terms of the trade promotions;

collecting the product POS data during the trade promotions from at least one in-store POS system of the retailer;

filtering the product POS data to obtain promoted product POS data;

storing the promoted product POS data in the independent system operator ~~first~~ database;

~~copying the promoted product POS data to the second database~~;

determining the an amount of money the manufacturer owes to the retailer based on the promoted product POS data and the terms of the ~~promotion~~; trade promotion stored in the independent system operator database;

storing the amount of money the manufacturer owes the retailer in the independent system operator ~~on the first database~~;

~~copying the amount of money the manufacturer owes the retailer to the second database~~;

providing the retailer and manufacturer access to the ~~first~~ independent system operator database during the product promotion to determine the amount of money the manufacturer owes the retailer for the trade promotion; and

facilitating payment to the retailer of the amount of money determined to be owed to the retailer by the manufacturer.

Claim 31 as been amended as follows:

31. (Amended) The method of Claim 30, which further includes the step of ~~aggregating~~ the independent system operator consolidating all of the promoted product POS data for a plurality of trade promotions of products from the manufacturer.

Claim 32 as been amended as follows:

32. (Amended) The method of Claim 31, which further includes the step of the independent system operator processing the ~~aggregated~~ consolidated promoted product POS data for a plurality of retailers for the manufacturer.

Claim 33 as been amended as follows:

33. (Amended) A method for enabling a retailer and a manufacturer involved in a plurality of trade promotions for a plurality of products to independently verify the terms of the trade promotions, said method comprising the steps of:

capturing the terms of the trade promotions in an independent system which operates independently from promotions;

~~storing the terms of the promotions in a database; and~~

~~enabling the retailer and the manufacturer to access the database;~~
storing the captured terms of the trade promotions in an electronic database of
the independent system; and
enabling the retailer and the manufacturer to access the electronic database of
the independent system to determine the stored terms of the trade promotions.

Claim 34 as been amended as follows:

34. (Amended) The method of Claim 33, wherein the step of enabling the retailer and manufacturer to access the electronic database of the independent system to determine the terms of the trade promotions includes enabling the retailer and manufacturer to access the electronic database of the independent system through the internet.

Claim 35 as been amended as follows:

35. (Amended) The method of Claim 34, which further includes the step of enabling the retailer to change the terms of the ~~promotions~~ trade promotions stored in the electronic database of the independent system prior to the start of the trade promotions, capturing the changed terms of the trade promotions and storing the changed terms of the ~~promotions in the database~~ trade promotions in the electronic database of the independent system.

Claim 36 as been amended as follows:

36. (Amended) The method of Claim 35, which further includes the step of enabling the retailer and the manufacturer to access the terms of the trade promotions stored in the ~~database to~~ electronic database of the independent system to independently verify the terms of the trade promotions and to determine if the retailer changed any of the terms of any of the trade promotions.

Claim 37 as been amended as follows:

37. (Amended) A system for administering ~~promotions~~ a trade promotion for a promoted product between a retailer and a manufacturer, said system comprising:

an independent system having a processor and an electronic database accessible by the processor which are adapted to capture and store the terms of the ~~promotions~~ trade promotion for the promoted product, to collect promoted product POS data for the ~~promotions~~ promoted product of the trade promotion from the retailer, to process the collected promoted product POS data in accordance with the stored terms of the ~~promotions~~ trade promotion in the electronic database to determine an amount of money the manufacturer owes to the retailer for the ~~promotions~~ trade promotion, and to facilitate the manufacturer's payment of the amount of money determined to be owed to the retailer for the ~~promotions~~ trade promotion;

a retailer system in communication with the independent system, having a processor adapted to collect promoted product POS data for the promoted product from a plurality of retailer stores, to consolidate the promoted product POS data, and to transfer the promoted product POS data for the ~~promotions~~ trade promotion to the independent system; and

a manufacturer system in communication with the independent system.

Claim 38 as been amended as follows:

38. (Amended) The system of Claim 37, wherein the independent system is adapted provide the retailer system and the manufacturer system access to the independent system electronic database to independently verify the stored terms of the ~~promotions~~ trade promotion, to determine the number of promoted products sold during the ~~promotions~~ trade promotion and to determine the amount of money the manufacturer owes to the retailer for the ~~promotions~~ trade promotion.

Claim 39 as been amended as follows:

39. (Amended) The system of Claim 38, wherein the independent system provides the manufacturer system and the retailer system access to the independent system through the internet.

Claim 40 as been amended as follows:

40. (Amended) The system of Claim 37, wherein the independent system is adapted to generate a table of UPC codes that are active in the ~~promotions~~ trade promotion and to transfer said table of UPC codes to the ~~retailers system~~ retailer system.

Claim 41 as been amended as follows:

41. (Amended) The system of Claim 40, wherein the retailer system is adapted to collect product POS data for all of the products ~~it~~ the retailer sells and to use the table of UPC codes to filter the product POS data to obtain promoted product POS data for the promoted product.

Claim 42 as been amended as follows:

42. (Amended) The system of Claim 37, wherein the independent system is adapted to verify that the promoted product POS data for the promoted product is within acceptable tolerances for the promoted product.

Claim 43 as been amended as follows:

43. (Amended) The system of Claim 37, wherein the independent system is adapted to ~~aggregate~~ consolidate all of the promoted product POS data for a plurality of promoted products for the manufacturer.

Claim 44 as been amended as follows:

44. (Amended) The system of Claim 43, wherein the independent system is adapted to process the ~~aggregated~~ consolidated promoted product POS data for a plurality of retailers for the manufacturer.

New Claims 45 to 93 have been added.